

# **Big Brother, Little Choice**

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## Abstract

The purpose of this paper is to highlight the evolution of privacy, as we enter a world of amplified surveillance. Proctoring technology is a software-based tool that is being implemented at post-secondary institutions. We will explore some of the key issues of its framework in relation to student privacy and academic integrity. As remote learning and exams become more mainstream, post-secondary schools want to ensure that their students are not completing exams in a dishonest fashion. We will look at the ramifications for both parties, students and institutions, to determine if there is a breach of privacy. The recording and storing of personal data have implications with privacy law and the human rights code. We want to explore the ‘big brother’ aspect of this technology and how post-secondary institutions are putting their students in an awkward position; conform or withdraw. Those who want to get a post-secondary education are subjected to data scrutiny in an unprecedented manner. Allowing post-secondary schools to hire third party private companies in order to gain access to student’s personal devices allows for a large window of privacy concern. The significance of the study is to raise awareness and find reasonable solutions to these concerns.

Online proctoring is a software-based concept that enables remote surveillance.

Proctoring is a webcam-based surveillance as well as a combination of biometric measurements in order to assess student exam sessions. This software has various uses: it helps to prevent cheating on exams and protects academic integrity. When students are being recorded at home through their webcams, those recordings are being stored on servers outside of Canada. Ethical questions about personal privacy, student safety and academic freedom come into play (Personal Communication, 2020). First, this paper looks at post-secondary educational institutions point of view, though they vary from school-to-school, and their usage of proctoring technology to uphold credibility and academic integrity. Many post-secondary schools would like to implement webcam-based proctoring as a means to deter students from cheating on tests and exams (Hylton, 2015). Secondly, this paper will look at Shoshana Zuboff's research on surveillance capitalism and how it relates to our society's shift towards an increasingly digital sphere. Additionally, we will inspect the idea of a 'big brother' and how this concept of power from a dominant structure in society affects a person's behaviour. Furthermore, we will explore the ethical dilemma of this new surveillance technology and some of the implications that could arise from it. Also, this paper delves into James Q. Whitman's research on the cultural differences between America and Europe with regards to privacy law. Lastly, this paper will examine the process of student consent in relation to proctoring software and how it may become a required aspect of getting an education in the future.

As post-secondary institutions begin gaining access to private homes and personal computers in order for proctoring to take place, we recognize that the conceptual meaning of the word 'privacy' is being reconstructed in modern day (Whitman, 2004). Due to the increased

activity of online learning, and the transparency of personal data when doing so, students are subject to a modern-day digital privacy experiment. Students are being asked to hand over remote access to their devices, therefore personal data and space is visible to others and no longer private (Connor, 2021). The online sphere is becoming increasingly diverse and complex, both academically and professionally, so we are seeing a shift in online policing and monitoring by some post-secondary institutions in an invasive manner.

Some students may take advantage of the unregulated nature of the online exams. In the article *Utilizing webcam-base proctoring to deter misconduct in online exams*, it states that “deception and dishonesty in online exams are believed to link to their unmonitored nature” (Hylton, 2015). Institutions would like to maintain their academic integrity and ultimately deter those who are considering cheating. This type of misconduct is hard to uncover if students are only completing their work remotely with no supervision (Hylton, 2015). This is especially relevant due to the global pandemic and shift in completing education from home. Academic integrity is important to a school’s reputation, and is also important to the students who have diplomas and degrees from them. If it becomes known that a person can attend online school and simply cheat their way into graduation, then the qualifications that come with these diplomas and degrees stop carrying the same weight or validity (Hylton, 2015). Post-secondary schools are faced with a challenging situation as they want to ensure credibility and academic integrity, but implementing proctoring technology is a violation of student rights and privacy (Swauger, 2020).

“Remote Proctor is a technology that combines biometric authentication with surveillance that records sessions of users and their environment during an exam (Hylton, 2015). While

lecture-based classes and assignments are more easily conducted virtually, the exam and testing portion of the education system is faced with a more complex level of implementation online. This type of biometric authentication is based upon the keyboard sensitivity and typing patterns that an individual has developed over time. Due to the COVID-19 virus we are currently limited in our ability to interact face-to-face. Post-secondary institutions are trying to adapt to the pandemic while still allowing for learning and education to take place in an online setting (Hylton, 2015). Some post-secondary institutions are utilizing this technology to combat the remote nature of online learning, and the pandemic has helped streamline its implementation without making headline news.

Thompson Rivers University in Kamloops, BC, shared a privacy notification and consent form to students who were performing exams remotely in the summer of 2020. The privacy notification states that the proctoring service will collect:

First and last name, address, institution name, phone number, student number, user name, student images, password, email address, real-time video and audio recording, notes regarding student's behaviour during the exam, visual identification (photo matching), viewing of student's computer screens and systems, and 360° testing environment scanning when requested, real-time monitoring of all applications, windows, and monitors that are being utilized on your computer during the exam, to prevent unauthorized viewing of content during an exam (Personal Communication, 2020).

Thompson Rivers University hired the company 'ProctorU', which is based in the United States, as a third-party to facilitate this process; their data centers reside outside of Canada. The privacy consent form goes on to say, "I consent to the storage and access of my personal information from outside of Canada. This consent is in effect from the day you register with ProctorU and expires one year after completion of your exam" (Personal Communication, 2020). This is rather alarming due to the degree of information being requested and monitored from students who

must consent to this notification in order to participate in the exam. When a FOI request was submitted to the Ministry of Advanced Education and Skills Training, there were no documents provided on the matter (Personal Communication, 2021). The province of BC should have documentation of this software if it is already being used in some of its post-secondary schools. An email response stated, “Proctoring policy and technology procurement for individual institutions is not managed nor policy set by the Ministry” (Personal Communication, 2021). The province has a responsibility to document and make this type of information available to the public. When proctoring technology is used in some post-secondary schools, students are put in a position of vulnerability, exposing their lives at home and their personal digital data (Kluth, 2010). The access to personal information and lack of privacy when proctoring software is used, is one that needs to be revisited.

Without having the option to decline the consent form and still do the exam, students are forced to conform, abide, or fail their course. This does not seem fair to students who suffer from test anxiety, or feel uncomfortable with online proctoring (Woldeab, 2019). Students who are already under a large cognitive load, are being subjected to online surveillance methods that breach student privacy rights and amplify the pressure to perform (Swauger, 2020). This raises serious ethical and legal questions around the privacy procedures that are in place with ProctorU, and the fact that their data centers are not here in Canada. While the consent form does state that “ProctorU will take reasonable steps to protect your personal information from unauthorized access and disclosure” (Personal Communication, 2020), they do not elaborate or make it clear on how they plan to do so. How can one be sure that their data is safe when post-secondary institutions themselves are not overseeing or involved in the surveillance process? Students are

being watched, examined, recorded and data-stored, and this is all being done remotely from a different country, by a private company who we know little about.

Contrary to Thompson Rivers University, McGill University has made an assessment about online proctoring in their school, and it is not currently authorized under any circumstances. Their website describes proctoring technology as a ‘Respondus Monitor’, which entails “an example of a record-and-review online proctoring tool that detects potentially suspicious student behaviour and produces a report that directs proctors to pertinent portions of the recording to review” (McGill, 2021). Though they do not elaborate on their reasoning not to implement this software, they have made it public that they are aware of this technology and have opted not to use it. Unlike Thompson Rivers University, McGill is not partnering with third-party companies to protect their academic integrity during the COVID-19 pandemic.

When it comes to the mental health aspect of remote proctoring in post-secondary institutions, students who have a history of anxiety actually perform worse on their test scores (Woldeab & Brothen, 2019). It is said that “state test anxiety refers to the transitory, anxious affect state provoked by a specific evaluative situation, while trait test anxiety refers to the tendency to be anxious in any evaluative situation” (Hong & Karstensson, 2002). Furthermore, the dynamic of online proctored examinations suggests that, “test anxiety may often distort and disguise the true abilities of students” (Meijer, 2001). The simple fact of being watched online can alter or impact the academic outcome for a student. Additionally, “students who typically show high levels of test anxiety in a classroom had less anxiety when taking their exams online, while the opposite was true for students showing low classroom anxiety” (Stowell & Bennett,

2010). This proves the complexity of online exam proctoring and how there is a wide spectrum of variables to consider when implementing this software to the masses. When we think about the cognitive load that students take on when performing exams, there is evidence showing that online exams increase this load (Prisacari & Danielson, 2017). So, if proctoring technology shows evidence of adding pressure to students' cognitive loads and affecting test scores in a negative manner, why are post-secondary schools using this method of surveillance?

The pandemic has been great for the profits of the proctoring industry, as post-secondary institutions hurry to adapt their practices and policies to the remote nature of learning. One proctoring company, Proctorio, shared with the New York Times that “business had increased by 900% during the first few months of the pandemic, to the point where the company proctored 2.5 million tests worldwide in April alone” (Swauger, 2020). The age of surveillance capitalism is upon us, and this economical surge in the proctoring industry brings into question the issue of human rights and how this negatively impacts society as a whole and the individuals within it. (Zuboff, 2019). Furthermore, “surveillance capitalism deprives us of such freedom by forcing us into an unequal relationship – they know almost everything about us while we know almost nothing about them or about what they do with what they know about us” (Zuboff, 2019). This lack of transparency impedes the ability for a healthy relationship to take place between post-secondary institutions and their students when proctoring technology is forced into the program. The consent to this type of surveillance becomes a necessary part of acquiring a post-secondary education, and one that is non-negotiable.



When it comes to the nature of the proctoring software and its inner workings, there are major issues to consider with their design. It is said that “algorithmic proctoring is a modern surveillance technology that reinforces white supremacy, sexism, ableism, and transphobia. The uses of these tools is an invasion of students’ privacy and, often, a civil rights violation” (Swauger, 2020). Some examples of this are, “students with children are penalized by these systems.... several proctoring programs will flag noises in the room or anyone who leaves the view as nefarious” (Swauger, 2020). Another example is a black woman who used Proctorio’s test proctoring software and shared that, “it always prompted her to shine more light on her face. The software couldn’t validate her identify and she was denied access to tests so often that she had to go to her professor to make other arrangements. Her white peers never had this problem” (Swauger, 2020). The fact that proctoring algorithms are exemplifying major flaws in their construction, should point to their lack of technological development and accuracy. Students should not be subject to a software that highlights these inequalities and unfairly accesses the student body.

The culture of privacy law is approached differently depending on where one resides. Whitman’s *The Two Western Cultures of Privacy: Dignity Versus Liberty* highlights the contrast in privacy laws between Europe and America. Europe is stricter in their policies about consumer data, workplace privacy, credit reporting and more (Whitman, 2004). These two cultures both have privacy laws that set out to protect their people in different ways: dignity vs. liberty. Europe’s focus on dignity provides their people with the notion that their image, name, information and reputation will be protected by privacy law. America’s focus on liberty is more focused on freedom, though the definition of freedom can differ depending on what sources you

use (Kluth, 2010). Based on these findings, the North American culture of freedom is less concerned about individual privacy and protection, but rather it empowers larger entities to push their own agenda and pursue their own ‘freedoms’. This approach to privacy leaves room for proctoring software to be implemented (Kluth, 2010).

In America “the right to privacy decreases as an individual moves further (physically or metaphorically) from his home” (Kluth, 2010). As we enter a world that is heavily focused on completing post-secondary education from home, surveillance and online monitoring is being imposed on students. Zuboff makes note of our increasingly surveilled capitalist society and its potential consequences (Zuboff, 2019). The power of modern-day surveillance is much stronger than we have seen in the past, as we provide unprecedented insight into our lives for corporations and post-secondary institutions to analyse (Zuboff, 2019). This shift in dynamic between civilian and institution changes and challenges our fundamental framework of society, and our freedom of privacy. Because large entities are capturing so much personal data, this could later be sold, shared or leaked.

Personal privacy is a basic right in society and is now at risk. The article *Government and corporate surveillance: moral discourse on privacy in the civil sphere* states, “government-based and corporate-based surveillance have regularly been accused of violating personal privacy, an elemental right in democratic society” (Connor, 2021). Why is it that these large entities are not held accountable to the same standards as individuals when it comes to privacy laws? Students are facing real privacy threats when it comes to signing consent forms and allowing proctoring technology to be implemented into their homes. Unfortunately, institutions seem to be initiating

much of this online surveillance in a deceptive manner, that neglects student from the conversation (Morrison, 2020). For example, the consent forms shared with students at Thompson Rivers University, in relation to proctoring software, are emailed at the end-of-term just prior to completing the final exam (Personal Communication, 2020); this blindsided maneuver shows the deception in the implementation process of proctoring technology. Students who take time out of their lives to focus on school, spend money on tuition and books should have the right to know about these developments at their institutions before it is too late.

The moral discourse around privacy in the digital sphere is very minimal, government, educational institutions and corporate entities all push the boundary of maintaining academic integrity and invasion of student personal privacy (Morrison, 2020). Raising awareness about this topic will be crucial for enhancing the dialogue and allowing all parties involved to be aware, rather than being blind-sided last minute with a consent form.

Due to the amount of information requested for online proctoring in post-secondary schools, there is an impediment on basic human freedoms and rights. Personal data and privacy are at risk when large entities push towards surveillance capitalism without making considerations about human rights. As we create a more open dialogue on the subject, we can work towards creating solutions. Not everyone will be impacted to the same degree when it comes to proctoring technology, though we must consider everyone's opinions and fears, and work towards an inclusive setting for online learning and education. As we enter 2021 and continue to immerse ourselves in online learning and working from home, educational

institutions and private sector companies will undoubtedly seek to adjust their policies to adapt to this increasingly digital sphere.

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